
SUBSTITUTE HOUSE BILL 2688

State of Washington 60th Legislature 2008 Regular Session

By House Human Services (originally sponsored by Representatives Roberts, Goodman, Hasegawa, Appleton, Pedersen, and Darneille)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to constraining the department of corrections'
2 authority to transfer offenders out of state; and amending RCW
3 72.68.010.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 72.68.010 and 2000 c 62 s 2 are each amended to read
6 as follows:

7 (1) Except as provided in subsection (4) of this section, whenever
8 in its judgment the best interests of the state or the welfare of any
9 prisoner confined in any penal institution will be better served by his
10 or her transfer to another institution or to a foreign country of which
11 the prisoner is a citizen or national, the secretary may effect such
12 transfer consistent with applicable federal laws and treaties. The
13 secretary has the authority to transfer offenders out-of-state to
14 private or governmental institutions if the secretary determines that
15 transfer is in the best interest of the state or the offender. The
16 determination of what is in the best interest of the state or offender
17 may include but is not limited to considerations of overcrowding,
18 emergency conditions, or hardship to the offender. In determining
19 whether the transfer will impose a hardship on the offender, the

1 secretary shall consider: (a) The location of the offender's family
2 and whether the offender has maintained contact with members of his or
3 her family; (b) whether, if the offender has maintained contact, the
4 contact will be significantly disrupted by the transfer due to the
5 family's inability to maintain the contact as a result of the transfer;
6 and (c) whether the offender is enrolled in a vocational or educational
7 program that cannot reasonably be resumed if the offender is returned
8 to the state.

9 (2) Subsection (4) of this section does not apply if the secretary
10 determines that its implementation endangers the safety of any offender
11 or staff. If circumstances arise that preclude full implementation of
12 subsection (4) of this section, the secretary shall make a report to
13 the appropriate committee chair, which shall document such
14 circumstances. Upon determination that the circumstances requiring
15 suspension of subsection (4) of this section are resolved, the
16 secretary shall notify the appropriate committee chairs.

17 (3) The department must inform an offender in writing of the intent
18 to transfer the offender out-of-state no less than fourteen days prior
19 to the proposed date of transfer.

20 (4) The secretary may not transfer an offender out-of-state if the
21 offender, within five days of being notified of the department's intent
22 to transfer the offender out-of-state, requests in writing to remain in
23 an in-state facility and demonstrates that he or she:

24 (a) Is regularly participating in extended family visitations with
25 his or her child;

26 (b) Is regularly participating in parent-teacher conferences
27 involving his or her child; or

28 (c) Has had at least six contacts in person with his or her child
29 within the six months prior to the proposed transfer.

30 (5) If directed by the governor, the secretary shall, in carrying
31 out this section and RCW 43.06.350, adopt rules under chapter 34.05 RCW
32 to effect the transfer of prisoners requesting transfer to foreign
33 countries.

34 (6) For the purposes of this section:

35 (a) "Child" means a person under the age of eighteen who is the
36 natural or adopted child of the offender or the stepchild of either the
37 offender or his or her spouse with legal custody and has been

1 authorized to visit the offender. Children who are victims of the
2 offender's sexual offense, physical abuse, or other mistreatment are
3 excluded.

4 (b) "Regularly participating" means participating on a consistent,
5 ongoing basis with the anticipation of continuing participation in the
6 future. "Regularly participating" does not include infrequent or
7 occasional participation, unless the opportunities for participation
8 are themselves infrequent or occasional.

9 (7) When the department transfers offenders from an out-of-state
10 facility to an in-state facility, the department must give priority to
11 offenders who, prior to their transfer to the out-of-state facility,
12 met at least one of the requirements of subsection (4) of this section
13 and who request, in writing, a transfer to an in-state facility.

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